

2013 DRAFTING REQUEST

Bill

Received:	7/30/2013	Received By:	emueller
Wanted:	As time permits	Same as LRB:	
For:	Frank Lasee (608) 266-3512	By/Representing:	Rob Kovach
May Contact:		Drafter:	mglass
Subject:	Nat. Res. - nav. waters	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
 Requester's email: **Sen.Lasee@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Exempt certain culvert projects from engineering study/DNR permit requirements

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mglass 9/25/2013			_____			
/P1	mglass 12/9/2013	kfollett 9/26/2013	jmurphy 9/27/2013	_____	sbasford 9/27/2013		State S&L
/P2	mglass 2/11/2014	kfollett 12/10/2013	jmurphy 12/11/2013	_____	sbasford 12/11/2013		State S&L
/1		kfollett	jfrantze	_____	sbasford	srose	State

Vers. Drafted

Reviewed
2/11/2014

Typed
2/11/2014

Proofed

Submitted
2/11/2014

Jacketed
2/24/2014

Required
S&L

FE Sent For:

at intro
/1

<END>

2013 DRAFTING REQUEST

Bill

Received: 7/30/2013	Received By: emueller
Wanted: As time permits	Same as LRB:
For: Frank Lasee (608) 266-3512	By/Representing: Rob Kovach
May Contact:	Drafter: mglass
Subject: Nat. Res. - nav. waters	Addl. Drafters:
	Extra Copies:

Submit via email: **YES**
Requester's email: **Sen.Lasee@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Exempt certain culvert projects from engineering study/DNR permit requirements

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mglass 9/25/2013			_____			
/P1	mglass 12/9/2013	kfollett 9/26/2013	jmurphy 9/27/2013	_____	sbasford 9/27/2013		State S&L
/P2	mglass 2/11/2014	kfollett 12/10/2013	jmurphy 12/11/2013	_____	sbasford 12/11/2013		State S&L
/1		kfollett	jfrantze	_____	sbasford		State

Vers. Drafted

Reviewed
2/11/2014

Typed
2/11/2014

Proofed

Submitted
2/11/2014

Jacketed

Required
S&L

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: 7/30/2013 Received By: emueller
Wanted: As time permits Same as LRB:
For: Frank Lasee (608) 266-3512 By/Representing: Rob Kovach
May Contact: Drafter: mglass
Subject: Nat. Res. - nav. waters Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Sen.Lasee@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Exempt certain culvert projects from engineering study/DNR permit requirements ✓

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mglass 9/25/2013			_____			
/P1	mglass 12/9/2013	kfollett 9/26/2013	jmurphy 9/27/2013	_____	sbasford 9/27/2013		State S&L
/P2		kfollett 12/10/2013	jmurphy 12/11/2013	_____	sbasford 12/11/2013		State S&L

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: **7/30/2013** Received By: **emueller**
Wanted: **As time permits** Same as LRB:
For: **Frank Lasee (608) 266-3512** By/Representing: **Rob Kovach**
May Contact: Drafter: **emueller**
Subject: **Transportation - highways** Addl. Drafters:
Extra Copies: **ARG**

Submit via email: **YES**
Requester's email: **Sen.Lasee@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Exempt certain culvert projects from engineering study/DNR permit requirements

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mglass 9/25/2013						
/P1		kfollett 9/26/2013	jmurphy 9/27/2013		sbasford 9/27/2013		State S&L

FE Sent For:

1P25f
12/10
1P25f
12/10
Donat
12/11
<END>

2013 DRAFTING REQUEST**Bill**

Received: 7/30/2013 Received By: emueller
Wanted: As time permits Same as LRB:
For: Frank Lasee (608) 266-3512 By/Representing: Rob Kovach
May Contact: DNR (general questions) Drafter: emueller
Subject: Transportation - highways Addl. Drafters:
Extra Copies: ARG

Submit via email: YES
Requester's email: Sen.Lasee@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Exempt certain culvert projects from engineering study/DNR permit requirements

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	emueller	1P/6f 9/26	gm 9/26	gm+gb 9/27			

FE Sent For:

<END>

2803

specify that
culvert be

same size
elevation
length
type of pipe

to be replaced
w/o new permit
or other
approvals

Shea

flowrate
is higher

Mueller, Eric

From: Shovers, Marc
Sent: Monday, July 29, 2013 2:36 PM
To: Mueller, Eric
Subject: FW: Drafting Request

Hi Eric:

Is this transportation? Could you take it? Thanks.

Marc

From: LRB.Legal
Sent: Monday, July 29, 2013 2:18 PM
To: Shovers, Marc
Subject: FW: Drafting Request

Hi Marc, Would this request go to you? Thanks....

From: Kovach, Robert
Sent: Monday, July 29, 2013 2:12 PM
To: LRB.Legal
Cc: Kovach, Robert; Jenkins, Kevin
Subject: Drafting Request

Dear LRB;

Senator Lasee was told about an issue that Towns are facing when replacing culverts during road rebuilding projects.

Apparently when a town replaces a culvert, they are required to obtain an engineering study to ensure the new culvert has adequate flow.

Secondly, they are required to obtain a DNR permit before replacing an existing culvert.

Senator Lasee would like to create a bill that would exempt Municipalities, Towns and Counties from those requirements as long as the culvert that is being replaced has an equal flow rating or greater of the one that is being replaced.

Thanks,

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2803/7

MGG:.....

MRMR

fr

D-N

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ups.
fix
request
sheet please
TWP

1 AN ACT ...; relating to: replacement of existing culverts.

Analysis by the Legislative Reference Bureau

Current law generally prohibits any person from constructing, placing or maintaining a culvert in or over a navigable water without being issued a permit by the Department of Natural Resources (DNR) or without receiving authorization to proceed under a statewide general permit issued by DNR. Under current law, a culvert is exempt from these permitting requirements if it is replacing an existing culvert and either does not have an inside diameter that is greater than 24 inches or in compliance with the conditions imposed by the permit for the existing culvert are exempt.

This bill adds another exemption. A replacement culvert is exempt from the permitting requirements if it is the same size and is made out of similar material as the existing culvert, if it will not decrease the flow rate capacity, and it will be at the same location and have the same slope as the existing culvert.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 30.123 (6) (d) of the statutes is amended to read:

3 30.123 (6) (d) The construction or placement and the maintenance of a culvert

4 to replace that replaces a culvert that is authorized under a permit issued under s.

30.12 or 30.123, if the construction, placement, and maintenance will comply with the same conditions of the permit.

SECTION 2. 30.123 (6) (dm) of the statutes is created to read:

30.123 (6) (dm) The construction or placement and the maintenance of a new culvert that replaces aⁿ existing culvert if all of the following apply:

1. The culvert that is being constructed or placed will not decrease the flow rate capacity.

2. Both culverts are the same length.

3. Both culverts are ^{of the} same in culvert size and area.

4. The culvert that is being constructed or placed is made out of a material that is comparable to the material of which the existing culvert is made.

5. The culvert that is being constructed or placed will be at the same location and at the same elevation and ^{will have} the same slope as the existing culvert.

SECTION 3. 30.123 (6) (e) of the statutes is amended to read:

30.123 (6) (e) The construction or placement and the maintenance of a culvert to replace that replaces a culvert that has an inside diameter that does not exceed 24 inches.

SECTION 4. 30.123 (6r) (a) of the statutes is amended to read:

30.123 (6r) (a) A person may submit to the department a written statement requesting that the department determine whether a proposed activity is exempt under sub. (6) (d), [✓] (dm), or (e). The statement shall contain a description of the proposed activity and site and shall give the department consent to enter and inspect the site.

SECTION 5. 30.123 (6s) (a) (intro.) of the statutes is amended to read:

1 30.123 (6s) (a) (intro.) The department may promulgate rules concerning the
2 exempt activities under sub. (6) (b), (d), and (e) that only do any of the following:

3 SECTION 6. 30.123 (7) (b) of the statutes is amended to read:

4 30.123 (7) (b) Construct and maintain a culvert that replaces a culvert that is
5 not exempt under sub. (6) (d), (dm), or (e) and that is in a navigable water that is less
6 than 35 feet wide.

7 (END)

O-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2803/7th dn

MGG:.....

Date

[Handwritten signature]

X In your review of this draft, please look at s. 30.123 (6m), (6r) (a), (6s) (a) and (7) (b). and let me know if you want to include a cross-reference to s. 30.123 (3) (dm) or want to take out a cross-reference that I have inserted. Please call me if you have any questions in this regard.

Because of the complexity of DNR's permitting requirements, I strongly suggest that you have DNR review this draft to make sure that DNR agrees that the language in this draft will achieve your intent.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215
E-mail: mary.gibson-glass@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2803/P1dn
MGG:kjf:jm

September 26, 2013

In your review of this draft, please look at s. 30.123 (6m), (6r) (a), (6s) (a), and (7) (b) and let me know if you want to include a cross-reference to s. 30.123 (3) (dm) or want to take out a cross-reference that I have inserted. Please call me if you have any questions in this regard.

Because of the complexity of DNR's permitting requirements, I strongly suggest that you have DNR review this draft to make sure that DNR agrees that the language in this draft will achieve your intent.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215
E-mail: mary.gibson-glass@legis.wisconsin.gov

Gibson-Glass, Mary

From: Kovach, Robert
Sent: Friday, November 22, 2013 3:12 PM
To: Gibson-Glass, Mary
Subject: FW: Culvert Bill Ideas LRB 2803

Dear Mary,

Can you call me when you read the email below?

Thanks!

Rob Kovach

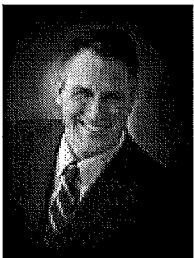
Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

From: Frank Lasee [<mailto:franklasee@yahoo.com>]
Sent: Thursday, November 21, 2013 11:09 AM
To: Kovach, Robert
Cc: Jenkins, Kevin
Subject: RE: Culvert Bill Ideas

Proceed. I agree with your strategy.

Sincerely,

Frank Lasee



State Senator

First Senate District
920-327-0585
Office 608-266-3512

From: Kovach, Robert [<mailto:Robert.Kovach@legis.wisconsin.gov>]
Sent: Tuesday, November 19, 2013 1:50 PM
To: franklasee@yahoo.com

Cc: Jenkins, Kevin
Subject: Culvert Bill Ideas

Dear Frank,

I met with Senator Tiffany today regarding the culvert bill.

I told him about the research that I had done that revealed all culverts 24" or less are exempt from permit already. I explained to him that the DNR permit is free but the towns and muni's are stuck with engineering costs if the DNR says the culvert isn't up to current specs.

The idea that I had mentioned to you was to make DNR responsible for all engineering costs so the town road aid would be used for concrete and asphalt. Since either the road aid or DNR funding comes out of the taxpayers' pocket, it would be a fiscal wash to the taxpayer, and the DNR would likely engineer fewer projects to save on their costs.

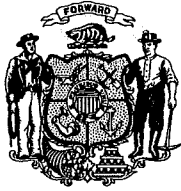
Tom's idea is to exempt all culverts replacements that don't involve an ORW or ERW stream. He would also expand the exemption for culverts 48" or less from a permit when the stream is an ORW or ERW stream.

[REDACTED] have [REDACTED] my idea and [REDACTED] with [REDACTED], counting on them to free [REDACTED] with the company's [REDACTED] of less than a [REDACTED] an ORW or ERM [REDACTED] 6th [REDACTED] commit.

Your thoughts?

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2803/P1/P2
MGG:kjf:jm

for D-N
12/11

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen and design and engineer costs
incurred in the construction
and placement of certain
culverts

AN ACT *to amend* 30.123 (6) (d), 30.123 (6) (e), 30.123 (6r) (a), 30.123 (6s) (a)
(intro.) and 30.123 (7) (b); and *to create* 30.123 (6) (dm) of the statutes;
relating to: replacement of existing culverts

Analysis by the Legislative Reference Bureau

Current law generally prohibits any person from constructing, placing, or maintaining a culvert in or over a navigable water without being issued a permit by the Department of Natural Resources (DNR) or without receiving authorization to proceed under a statewide general permit issued by DNR. Under current law, a culvert is exempt from these permitting requirements if it is replacing an existing culvert and either does not have an inside diameter that is greater than 24 inches or is in compliance with the conditions imposed by the permit for the existing culvert are exempt.

This bill adds another exemption. A replacement culvert is exempt from the permitting requirements if it is the same size and is made out of similar material as the existing culvert, if it will not decrease the flow rate capacity, and it will be at the same location and have the same slope as the existing culvert.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

stays →

INS
ANL

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 30.123 (6) (d) of the statutes is amended to read:

30.123 (6) (d) The construction or placement and the maintenance of a culvert to replace that replaces a culvert that is authorized under a permit issued under s. 30.12 or 30.123, if the construction, placement, and maintenance will comply with the same conditions of the permit.

SECTION 2. 30.123 (6) (e) of the statutes is amended to read:

30.123 (6) (e) The construction or placement and the maintenance of a culvert to replace that replaces a culvert that has an inside diameter that does not exceed 24 inches.

SECTION 3. 30.123 (6r) (a) of the statutes is amended to read:

30.123 (6r) (a) A person may submit to the department a written statement requesting that the department determine whether a proposed activity is exempt under sub. (6) (d), (dm), or (e). The statement shall contain a description of the proposed activity and site and shall give the department consent to enter and inspect the site.

SECTION 4. 30.123 (6s) (a) (intro.) of the statutes is amended to read:

30.123 (6s) (a) (intro.) The department may promulgate rules concerning the exempt activities under sub. (6) (b), (d), and (e) that only do any of the following:

SECTION 5. 30.123 (7) (b) of the statutes is amended to read:

30.123 (7) (b) Construct and maintain a culvert that replaces a culvert that is not exempt under sub. (6) (d), (dm), or (e) and that is in a navigable water that is less than 35 feet wide.

← INSERT 3-9

(END)

D-NH

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2803/P2ins
MGG:.....

Insert ANL

Current law generally prohibits any person from constructing, placing, or maintaining a culvert in or over a navigable water without being issued an individual permit by the Department of Natural Resources (DNR) or without receiving authorization to proceed under a statewide general permit issued by DNR. Under current law, a culvert is exempt from these permitting requirements if it is replacing an existing culvert and it either does not have an inside diameter that exceeds 24 inches or it is in compliance with the conditions imposed by the applicable permit.

X This bill adds an exemption for a culvert that is replacing an existing culvert that is not authorized by an individual or general permit. Under the bill, the replacement culvert is exempt if it is the same length, diameter, and size as the existing culvert, if it will not decrease the flow rate capacity, and it will be at the same location and have the same slope as the existing permit. is

+ Under the bill, a replacement culvert may not have an inside diameter that exceeds ~~not exceed~~ 48 inches in diameter if it is being constructed or placed on a navigable water that is identified by DNR as an outstanding or exceptional resource water.

Under the bill, DNR must be responsible for the design and engineering costs in determining whether the construction or placement of a culvert is exempt from or subject to the general or individual permitting process that applies to culverts.

Insert 3-9

1 **SECTION 1.** 30.123 (6) (intro.) (except title) of the statutes is repealed.

2 **SECTION 2.** 30.123 (6) (b) of the statutes is amended to read:

3 30.123 (6) (b) The construction and maintenance of bridges by the department
4 of transportation in accordance with s. 30.2022 ~~is~~ ^{are} exempt from the permitting
5 requirements under this section.

6 **SECTION 3.** 30.123 (6) (d) of the statutes is amended to read:

7 30.123 (6) (d) The Subject to par. (dr), the construction or placement and the
8 maintenance of a new culvert ~~to replace a~~ that replaces an existing culvert that is
9 authorized under a permit issued under s. 30.12 or 30.123, this section is exempt
10 from the permitting requirements under this section if the construction, placement,
11 and maintenance will comply with the same conditions of the permit.

SECTION 4. 30.123 (6) (dg) of the statutes is created to read:

30.123 (6) (dg) Subject to par. (dr), the construction or placement and the maintenance of a new culvert that replaces an existing culvert that is not authorized under a permit issued under s. 30.12 or this section is exempt from the permitting requirements under this section if all of the following apply:

1. The culvert that is being constructed or placed will not decrease the flow rate capacity.
2. Both culverts are the same length and have the same inside diameter.
3. Both culverts are otherwise the same in size and area.
4. The replacement culvert is made out of a material that is comparable to the material of which the existing culvert is made.
5. The replacement culvert will be at the same location and at the same elevation and will have the same slope as the existing culvert.

SECTION 5. 30.123 (6) (dr) of the statutes is created to read:

30.123 (6) (dr) A replacement culvert that is on a navigable water that is identified as an outstanding or exceptional resource water under s. 281.15 is exempt under par. (d) or (dg) only if the culvert has an inside diameter that does not exceed 48 inches.

SECTION 6. 30.123 (6) (e) of the statutes is repealed.

SECTION 7. 30.123 (6m) (intro.) of the statutes is amended to read:

30.123 (6m) PERMITS IN LIEU OF EXEMPTIONS. (intro.) The department may decide to require that a person engaged in an activity that is exempt under sub. (6) (d) or (e) to (dr) apply for an individual permit or seek authorization under a general permit if the department has conducted an investigation and visited the site of the

activity and has determined that conditions specific to the site require restrictions on the activity in order to prevent any of the following:

History: 1977 c. 190; Stats. 1977 s. 30.122; 1977 c. 272; Stats. 1977 s. 30.123; 1987 a. 374; 2003 a. 118; 2011 a. 167; 2013 a. 1.

SECTION 8. 30.123 (6r) (a) of the statutes is amended to read:

30.123 (6r) (a) A person may submit to the department a written statement requesting that the department determine whether a proposed activity is exempt under sub. (6) (d) ~~or (e)~~ to (dr). The statement shall contain a description of the proposed activity and site and shall give the department consent to enter and inspect the site.

SECTION 9. 30.123 (6s) (a) (intro.) of the statutes is amended to read:

30.123 (6s) (a) (intro.) The department may promulgate rules concerning the exempt activities under sub. (6) (d) to (dr) that only do any of the following:

History: 1977 c. 190; Stats. 1977 s. 30.122; 1977 c. 272; Stats. 1977 s. 30.123; 1987 a. 374; 2003 a. 118; 2011 a. 167; 2013 a. 1.

SECTION 10. 30.123 (6s) (b) of the statutes is amended to read:

30.123 (6s) (b) Notwithstanding par. (a), the rules under par. (a) ~~1. and 2.~~ may not establish practices or requirements that prohibit or severely limit the construction of replacement culverts or that render the placement of culverts economically cost-prohibitive.

****NOTE: Do you want to prohibit DNR from promulgating any rules that apply to exempt replacement culverts?

SECTION 11. 30.123 (7) (b) of the statutes is repealed.

****NOTE: This provision is repealed since, under this draft, almost all replacement culverts are exempt from general permitting requirements. The only replacement culverts that would be exempt from the permitting requirement would be those that are on outstanding or exceptional resource waters and that would exceed 48 inches in diameter.

SECTION 12. 30.123 (9) of the statutes is created to read:

30.123 (9) ENGINEERING COSTS. The department shall be responsible for all of the engineering or design costs that are incurred in determining whether the

- 1 construction or placement of a culvert by a municipality is exempt under this section ✓
individual
- 2 or is subject to the general or permitting requirements under this section. ✓

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2803/P2dn

MGG: ~~mjm~~

19f

Date

+ Please review this draft carefully to ensure that it is consistent with your intent. The ^{re} are notes embedded in the draft to assist you in your review.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215
E-mail: mary.glass@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2803/P2dn
MGG:kjf:jm

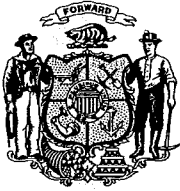
December 10, 2013

Please review this draft carefully to ensure that it is consistent with your intent. There are notes embedded in the draft to assist you in your review.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215
E-mail: mary.glass@legis.wisconsin.gov

for IP3

- ① Take out surety limit
- ② exempt maintenance of existing culvert is exempt if no reduction in capacity.
- ③ DNR responsible for getting engineering + design work and may K for that



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2803/PZ
MGG:kjf:jm

Today

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

AN ACT *to repeal* 30.123 (6) (intro.) (except title), 30.123 (6) (e) and 30.123 (7) (b); *to amend* 30.123 (6) (b), 30.123 (6) (d), 30.123 (6m) (intro.), 30.123 (6r) (a), 30.123 (6s) (a) (intro.) and 30.123 (6s) (b); and *to create* 30.123 (6) (dg), 30.123 (6) (dr) and 30.123 (9) of the statutes; *relating to:* replacement of existing culverts and design and engineering *work* *for* *and maintenance* *Regen* costs incurred in the construction and placement of certain culverts.

Analysis by the Legislative Reference Bureau

Current law generally prohibits any person from constructing, placing, or maintaining a culvert in or over a navigable water without being issued an individual permit by the Department of Natural Resources (DNR) or without receiving authorization to proceed under a statewide general permit issued by DNR. Under current law, a culvert is exempt from these permitting requirements if it is replacing an existing culvert and it either does not have an inside diameter that exceeds 24 inches or it is in compliance with the conditions imposed by the applicable permit.

This bill adds an exemption for a culvert that is replacing an existing culvert that is not authorized by an individual or a general permit. Under the bill, the replacement culvert is exempt if it is the same length, diameter, and size as the existing culvert, if it will not *than the existing culvert* decrease the flow rate capacity, and it will be at the same location and have the same slope as the existing permit.

have a lower

Under the bill, a replacement culvert may not have an inside diameter that exceeds 48 inches in diameter if it is being constructed or placed on a navigable water that is identified by DNR as an outstanding or exceptional resource water. (1W3 ANL)

Under the bill, DNR must be responsible for the design and engineering costs in determining whether the construction or placement of a culvert is exempt from or subject to the general or individual permitting process that applies to culverts.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

✓
1 **SECTION 1.** 30.123 (6) (intro.) (except title) of the statutes is repealed.

2 **SECTION 2.** 30.123 (6) (b) of the statutes is amended to read: ✓

3 30.123 (6) (b) The construction and maintenance of bridges by the department
4 of transportation in accordance with s. 30.2022 are exempt from the permitting
5 requirements under this section.

6 **SECTION 3.** 30.123 (6) (d) of the statutes is amended to read: ✓

7 30.123 (6) (d) The Subject to par. (dr), the construction or placement and the
8 maintenance of a new culvert to replace a that replaces an existing culvert that is
9 authorized under a permit issued under s. 30.12 or 30.123, this section is exempt
10 from the permitting requirements under this section if the construction, placement,
11 and maintenance will comply with the same conditions of the permit.

12 **SECTION 4.** 30.123 (6) (dg) of the statutes is created to read: ✓

13 30.123 (6) (dg) Subject to par. (dr), the construction or placement and the
14 maintenance of a new culvert that replaces an existing culvert that is not authorized
15 under a permit issued under s. 30.12 or this section is exempt from the permitting
16 requirements under this section if all of the following apply:

17 1. The culvert that is being constructed or placed will not ^{have a} decrease the flow rate
18 capacity. _{rate}

(that is less than the flow/capacity of the existing culvert.)

1 2. Both culverts are the same length and have the same inside diameter.

2 3. Both culverts are otherwise the same in size and area.

3 4. The replacement culvert is made out of a material that is comparable to the
4 material of which the existing culvert is made.

5 5. The replacement culvert will be at the same location and at the same
6 elevation and will have the same slope as the existing culvert.

7 **SECTION 5.** 30.123 (6) (dr) of the statutes is created to read:

8 30.123 (6) (dr) A replacement culvert that is on a navigable water that is
9 identified as an outstanding or exceptional resource water under s. 281.15 is exempt
10 under par. (d) or (dg) only if the culvert has an inside diameter that does not exceed
11 48 inches.

12 **SECTION 6.** 30.123 (6) (e) of the statutes is repealed.

13 **SECTION 7.** 30.123 (6m) (intro.) of the statutes is amended to read:

14 30.123 (6m) PERMITS IN LIEU OF EXEMPTIONS. (intro.) The department may
15 decide to require that a person engaged in an activity that is exempt under sub. (6)
16 (d) ~~or (e)~~ to (dr) apply for an individual permit or seek authorization under a general
17 permit if the department has conducted an investigation and visited the site of the
18 activity and has determined that conditions specific to the site require restrictions
19 on the activity in order to prevent any of the following:

20 **SECTION 8.** 30.123 (6r) (a) of the statutes is amended to read:

21 30.123 (6r) (a) A person may submit to the department a written statement
22 requesting that the department determine whether a proposed activity is exempt
23 under sub. (6) (d) ~~or (e)~~ to (dr). The statement shall contain a description of the
24 proposed activity and site and shall give the department consent to enter and inspect
25 the site.

SECTION 9. 30.123 (6s) (a) (intro.) of the statutes is amended to read:

30.123 **(6s)** (a) (intro.) The department may promulgate rules concerning the exempt activities under sub. (6) (d) to (dr) that only do any of the following:

SECTION 10. 30.123 (6s) (b) of the statutes is amended to read:

30.123 (6s) (b) Notwithstanding par. (a), the rules under par. (a) ~~1. and 2.~~ may not establish practices or requirements that prohibit or severely limit the construction of replacement culverts or that render the placement of culverts economically cost-prohibitive.

****NOTE: Do you want to prohibit DNR from promulgating any rules that apply to exempt replacement culverts?

SECTION 11. 30.123 (7) (b) of the statutes is repealed.

****NOTE: This provision is repealed since, under this draft, almost all replacement culverts are exempt from general permitting requirements. The only replacement culverts that would be exempt from the permitting requirement would be those that are on outstanding or exceptional resource waters and that would exceed 48 inches in diameter.

SECTION 12. 30.123 (9) of the statutes is created to read:

30.123 (9) ENGINEERING COSTS. The department shall be responsible for all of the engineering ^{and} ^{work} ^{is necessary to determine} or design costs that ~~are incurred in determining~~ whether the construction or placement of a culvert by a municipality is exempt under this section or is subject to the general or individual permitting requirements under this section.

(END)

The department may ^{enter into a} contract with another person for ~~the~~ performance to perform this ~~work~~ work.

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2803/lins
MGG:.....

1 **Insert ANL**

2 *single space* ¶ Also, the bill exempts from the individual and general permitting requirements
3 the maintenance of a culvert if the flow rate capacity will not be decreased as a result
4 of the maintenance.

5 **Insert 3-9**

6 **SECTION 1.** 30.123 (6) (f) of the statutes is created to read:

7 30.123 **(6)** (f) The maintenance of a culvert is exempt from the permitting
8 requirements under this section if the the flow rate capacity will not be decreased as
9 a result of the maintenance.

Basford, Sarah

From: Kovach, Robert
Sent: Monday, February 24, 2014 10:14 AM
To: LRB.Legal
Subject: Draft Review: LRB -2803/1 Topic: Exempt certain culvert projects from engineering study/DNR permit requirements

Please Jacket LRB -2803/1 for the SENATE.